

## **LOCAL LAW NO. 6 OF 2012**

### **RE: A LOCAL LAW CONCERNING THE PERMITTED USE OF THE TOWN OF MIDDLETOWN TRANSFER STATION REPLACING LOCAL LAW NO. 2 of 2009**

BE IT ENACTED by the Town Legislature of the Town of Middletown, State of New York as follows:

**I. TITLE AND AUTHORITY:** This Local Law shall be referred to as Local Law 6 of 2012 or the "Town of Middletown Transfer Station and Recycling Center Law" ("Transfer Station Law").

**II. SCOPE AND LOCATION:** This law covers the collection, separation and disposal of all solid waste generated in the Town of Middletown and establishes a permit system for the disposal of selected solid wastes at the transfer station facility (hereinafter "Facility") located on 46530 State Highway 30, Middletown, New York. Any portion of attached Schedules "A" and "B" may be amended by Resolution of the Town Board of the Town of Middletown. Nothing contained herein shall prevent the Town Board from amending Schedule "A" or "B" by Resolution, whether to amend such terms as the Town Board deems necessary or to conform with other laws, rules and regulations.

**III. PURPOSE:** The purpose of this Local Law is to:

- A. Ensure efficient and economical disposal of solid waste generated in the Town of Middletown.
- B. Ensure compliance with all environmental laws.
- C. Minimize solid waste that must be transferred or disposed of at an approved facility by maximizing recycling.
- D. Maintain the highest safety standards and good working order of the facility for public users and commercial haulers as well as Middletown employees located at the facility.

#### **IV. POLICIES:**

##### **1. Schedule:**

A. Hours of operation. The Facility shall be open during such times as the Town Board shall determine.

B. Holidays. The Facility shall be closed on the following holidays: Thanksgiving, Christmas, and New Year's Day. The schedule of hours and holidays may be amended by Resolution of the Town Board.

C. Disposal of any items at the Facility **except during hours of operation is prohibited.** Any person leaving items when the Facility is closed shall be prosecuted in accord with Section X "VIOLATION AND PENALTIES".

##### **2. Safety:**

Disposing of solid waste can be dangerous. Splinters from wood, broken glass, rusting scrap metal, sharp objects, etc. are potentially dangerous and shall be handled with care. No person shall loiter in the vicinity of the compactor while in operation. All persons using the Facility shall follow the directions of the attendant and adhere to the following safety procedures:

- a. All persons shall wear appropriate footwear while on site. Bare feet are absolutely prohibited.
- b. An adult shall accompany all children under the age of 16.
- c. No person(s) other than facility staff is allowed to enter any prohibited, restricted or closed area, or climb onto any drop off container or wall.
- d. Vehicles within the Facility shall be limited to a maximum speed of 5 miles per hour.
- e. Removal of items from the Facility or "dump picking" is prohibited except from a designated "swap area", if one is so designated.
- f. All persons entering the Facility do so at their own risk.

**V. SEPARATION OF MATERIALS:** All waste materials deposited at the Facility shall be separated into categories listed in Section I of Schedule A or as directed by attendants. Unseparated materials will not be accepted.

**VI. TRANSFER STATION PERMITS:** All vehicles entering the Facility are required to display a transfer station permit or be designated as per the commercial hauler requirements in Section C below.

- A. Permits can be applied for by residents or purchased by nonresidents or commercial haulers at the Office of the Town Clerk.
- B. Nonresident permits: A nonresident of the Town of Middletown may purchase a transfer station permit upon submission of display of proof of residence within Delaware County, vehicle registration plus payment to the Town of Middletown at the Town Clerk's office such annual fees as are set forth by Resolution of the Town Board. Nonresident permit fees are listed in Schedule "B" and will be reviewed annually at the December Town Board meeting and amended as needed by Resolution of the Town Board, becoming effective on January 1<sup>st</sup> of the calendar year following review. Pro-rated fees for nonresident permits purchased annually on or after July 1<sup>st</sup> are also listed in Schedule "B" and these fees are additionally subject to yearly review and alteration by Resolution of the Town Board.
- C. Commercial Haulers will also have use of the Middletown Transfer Station, by permit, for such fees as shall also be set hereafter by Resolution of the Town Board based upon Gross Vehicular Weight (hereinafter "GVW") of the vehicle(s) used by the hauler. These fees and commercial usage rates will be reviewed and approved by the Town Board. Current charges for commercial users of the Middletown Transfer Station shall be listed in Schedule "B"; these fees shall be effective January 1, 2013 and any and all future changes will be effective the 1<sup>st</sup> of January of the calendar year following the annual review. The Town Clerk shall notify commercial haulers of all fees and any changes and their obligations for payment as resolved by the Town Board following the annual December review.
- D. Permits shall be permanently affixed to all Transfer Station user vehicles and shall be visible at all times. The Middletown Town Clerk and Transfer Station Supervisor will keep a list of commercial haulers with current, paid up, annual permits for their reference.



- E. Renters of residential property in the Town of Middletown who are not full-time residents of Middletown shall show proof of residency from their landlord in order to obtain a permit.

**VII. ACCEPTABLE MATERIALS AND SEPARATION PRACTICES:** The items set forth under Schedule "A," must be separated and placed in designated containers or locations. All household trash must be contained in clear plastic bags; trash in black or white bags is prohibited. No garbage, refuse, rubbish or other material that does not have its origin within the Town of Middletown shall be deposited or disposed of in the Facility, unless the person depositing or disposing of such material has a permit issued pursuant to Section IX(B) below.

**VIII. UNACCEPTABLE MATERIALS:** The materials designated under Schedule "A" Part II shall not be accepted at the Facility.

**IX. PAYMENT OF FEES:**

A. Permits for residents: Residents of the Town of Middletown shall be given one permit per vehicle free of charge upon submission of a completed application and display of proof of residence as set forth in Section VI (A or E) above.

B. Nonresident permits: A nonresident of the Town of Middletown may purchase a transfer station permit upon display of proof of residence within Delaware County as set forth in Section VI (B) above, plus payment to the Town of Middletown at the Town Clerk's Office an annual fee as set forth in Schedule "B" by Resolution of the Town Board. All payments for fees shall be payable to the Town of Middletown and shall be deposited into the Town's General Fund.

C. Commercial Haulers: Commercial Haulers may purchase a transfer station permit upon payment of fees to the Town of Middletown no later than January 31<sup>st</sup> of each new calendar year as per those fees set forth in Schedule "B" by Resolution of the Town Board. The Town Board may, by Resolution, allow purchasing of permits at any time during the year and application for same at a pro-rated amount, if it so chooses.

**X. VIOLATION AND PENALTIES:**

- A. A violation of this Local Law shall be committed whenever a person, without specific contrary instruction from the Facility Attendant or Supervisor:
1. discards or disposes of, or attempts to discard or dispose of, any material whatsoever at the Facility without displaying a permit as required pursuant to Section VI above;
  2. discards or disposes of, or attempts to discard or dispose of, at the Facility, any material designated in Schedule "A" as unacceptable;
  3. discarding or disposing of any items of any type or kind at the Facility outside of regular hours of operation;
- B. A person who violates any provision of this Local Law shall be guilty of an offense punishable by a fine of One Hundred to Five Hundred Dollars and in addition thereto, liable to pay a civil penalty of Two Hundred Fifty Dollars. A person found to have violated this law three or more times within a twenty-four month period shall be guilty of a misdemeanor punishable by a fine of not less than One Thousand Dollars, or by imprisonment for up to thirty days, and in addition thereto, shall be liable to pay a civil penalty of One Thousand Dollars.

- C. A certificate, sworn to or affirmed by a Facility Attendant or Supervisor setting forth the facts of such violation shall constitute prima facie evidence of the facts stated therein.
- D. The owner of a vehicle the occupants of which violate this Local Law shall be jointly and severally liable for the civil penalty incurred by reason of such violation.
1. A notice of liability shall be sent by first class mail to each person alleged to be liable as an owner for a violation of this Local Law. Personal delivery on the owner shall not be required. A manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of the facts contained therein. It shall be presumed that a notice of liability was received by the addressee on the fifth business day after the notice was mailed.
  2. A notice of liability shall contain the name and address of the person alleged to be liable as an owner for a violation of this Local Law, the license number of the vehicle involved in such violation, the location where such violation took place, the date and time of such violation and the facts constituting the violation.
  3. The notice of liability shall contain information advising the person charged of the manner and the time in which he may contest the liability alleged in the notice. Such notice of liability shall also contain a warning to advise the persons charged that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.
  4. It shall be a valid defense to an allegation of liability that the vehicle had been reported to the police as stolen prior to the time the violation occurred and had not been recovered by such time. For purposes of asserting the defense provided by this subdivision it shall be sufficient that a certified copy of the police report on the stolen vehicle be sent by first class mail to the court having jurisdiction.
  5. An owner who is a lessor of a vehicle to which a notice of liability was issued shall not be liable for the violation, provided that he or she sends to the court having jurisdiction a copy of the rental, lease or other such contract document covering such vehicle on the date of the violation, with the name and address of the lessee clearly legible, within twenty-days after receiving notice. Failure to send such information within such twenty-one day period shall render the owner liable for the penalty prescribed by this section. Where the lessor complies with the provisions of this paragraph, the lessee of such vehicle on the date of such violation shall be deemed to be the owner of such vehicle for purposes of this section, shall be subject to liability for the violation and shall be sent a notice of liability pursuant to subdivision (1) of this section.
  6. If the owner liable for a violation of this local law was not the person who actually committed the violation, the owner may seek indemnification against the actual perpetrator.
- E. The Town Court of the Town of Middletown shall have jurisdiction to adjudicate the liability imposed under this Local Law.
- F. All fines and penalties collected shall be payable to the Town of Middletown and deposited in the general fund.



G. It shall be a complete defense to any violation of Section VI of this Local Law that within five business days after receipt of a notice of liability or appearance ticket, the owner supplies the Town Clerk with documentation showing that the owner has the permit required by this law, or obtains such a permit.

H. The Town shall have and retain the right to revoke any and all purchased (commercial and non-residential) or given (residential) permits.


**XI. SEPARABILITY:** The invalidity of any provision of this regulation shall neither affect the validity of any other provision hereof, nor the validity of the regulation as a whole.

**XII. EFFECTIVE DATE:** This local law shall take effect immediately upon filing with the Secretary of State.

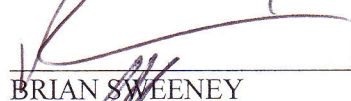
BE IT ENACTED this 11<sup>th</sup> day of December, 2012 by the Town Board of the Town of Middletown, Delaware County, New York.

  
MARJORIE MILLER, SUPERVISOR

Aye/Nay

  
MICHAEL FINBERG

Aye/Nay

  
BRIAN SWEENEY

Aye/Nay

  
JACOB ROSA

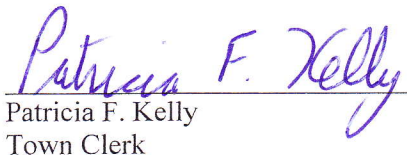
Aye/Nay

\_\_\_\_\_  
JOHN ROUCEK

Aye/Nay

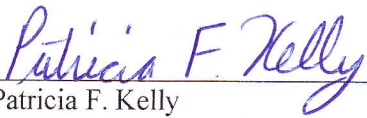
Councilman John Roucek was absent.

ATTEST:

  
Patricia F. Kelly  
Town Clerk

I hereby certify that the local law annexed hereto, designated as Local Law No. 6 of 2012 of the Town of Middletown was duly passed by the Town Board on December 11, 2012, in accordance with the applicable provisions of law.

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law as duly adopted.

  
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Patricia F. Kelly

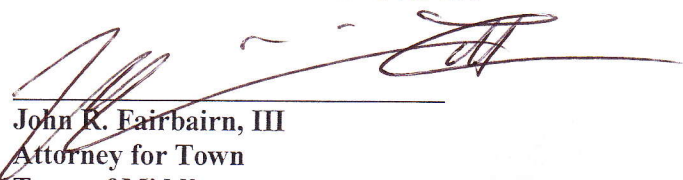
Town Clerk

Dated: December 11, 2012

(Seal)

STATE OF NEW YORK  
COUNTY OF DELAWARE

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

  
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John R. Fairbairn, III  
Attorney for Town  
Town of Middletown

## SCHEDULE "A"

### Section I. ACCEPTABLE MATERIALS/RECYCLING & SEPARATION

The following items shall be accepted only if separated and placed in the appropriate containers and/or areas in accord with the procedures set forth below:

1. Recyclable items that are accepted mixed together. Co-mingled recyclables include: Plastic HDPE (#2) & PETE (#1) bottles and jugs, metal food and beverage containers, glass bottles and jars that are rinsed clean and deposited in the container marked for "Metal and Glass".
2. Bulk scrap metal including: scrap metal pieces, wheel rims, bike frames, lawn mowers, grills, car parts, wire, metal pipes and posts, metal fencing, metal boats, motors and engine parts as well as all bulk scrap metal not containing oils, gasoline, Freon, or other fluids or materials subject to special handling under Local, State, or Federal regulation.
3. Recyclable items that are deposited must be segregated. Separated recyclables include: corrugated cardboard, newspaper, magazines and junk mail. Cardboard: All corrugated cardboard which is clean, dry, and not waxed. Newspaper: Can be loose or in a brown paper bag, and must be clean. Magazines and junk mail are acceptable as posted at the Facility.
4. Household trash must be contained in clear plastics bag and deposited in the designated compactor.

### Section II. MATERIALS NOT ACCEPTED AT THE FACILITY

1. Any materials contained in black or colored plastic bags.
2. Wood of any kind (windows, doors, frame, etc.).
3. Carpeting or carpet pads of any size.
4. Air conditioners, refrigerators, freezers, or other **Freon filled appliances**.
5. Furniture (sofas, chairs, tables, cribs, dressers, etc.).
6. Construction debris (sheetrock, shingles, siding, insulation, plaster, flooring, etc.).
7. **Burn barrel ashes or stove ashes.**
8. Liquids of any kind (paint, solvents, oils, driveway sealer, etc.).
9. **Automobile tires or tubes.**
10. Automotive batteries (lead acid filled).
11. Yard wastes (leaves, green or leafy wood, etc.) as well as tree stumps or plants.

12. Fluorescent bulbs, ballasts, mercury vapor lights.
13. Industrial waste, household hazardous waste, asbestos, medical and veterinarian waste, liquids of any kind, radioactive waste, explosives, or toxic substances.
14. Dead animals or carcasses of any kind.
15. Solid fills, including brick and concrete demolition debris.
16. Junk cars, engines, chassis, transmissions, axles, etc.
17. Propane tanks larger than 20lb capacity and any propane tank with a valve in place.
18. Acetylene and oxygen tanks.
19. Unseparated trash (commingled household trash and recyclables).



## SCHEDULE "B"

### **Section I. NONRESIDENT PERMIT FEES -**

Nonresidents of the Town of Middletown shall, upon receipt and completion of application and proof of Delaware County Residence, be able to obtain an annually renewable permit for use of the Facility for the following rates:

- \$150.00 per year payable to the Town of Middletown, to be deposited into the General Fund.
- On or after July 1<sup>st</sup>, fee for nonresident permits will be \$100.00, also payable to the Town of Middletown, to be deposited into the General Fund.

### **Section II. COMMERCIAL HAULER FEES -**

Commercial Haulers in the Town of Middletown will have permitted use of the Facility for the following current annual rates to be paid to the Town of Middletown no later than March 31<sup>st</sup> of each year, set by Resolution of the Town Board of the Town of Middletown, to be reviewed at the regular December Board meeting:

Commercial haulers whose weight (Gross Vehicular Weight or "GVW") as revealed on their registration is under 10,000 lbs: \$600.00

Commercial Haulers whose GVW is at or over 10,000 lbs: \$2,400.00

Commercial Haulers using vehicles with GVW over five tons shall not deliver more than twice per week.